

House File 852 - Introduced

HOUSE FILE _____
BY COMMITTEE ON PUBLIC SAFETY

(SUCCESSOR TO HSB 216)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the sale of a pseudoephedrine product by a
2 pharmacy or retailer, and providing penalties and contingent
3 applicability.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 1286HV 82
6 jm/gg/14

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1 1 Section 1. Section 124.212, subsection 4, paragraph c,
1 2 Code 2007, is amended to read as follows:
1 3 c. Pseudoephedrine. A person shall present a
1 4 ~~government-issued driver's license or other state-issued photo~~
1 5 identification card when purchasing a pseudoephedrine product
1 6 from a pharmacy. A person shall not purchase ~~more than seven~~
1 7 ~~thousand five hundred milligrams of pseudoephedrine, either~~
1 8 ~~separately or collectively, within a thirty-day period a~~
1 9 ~~quantity of pseudoephedrine in violation of section 124.213~~
1 10 from a pharmacy, unless the person has a prescription for a
1 11 pseudoephedrine product in excess of that quantity. A
1 12 pseudoephedrine product not excepted from this schedule shall
1 13 be sold by a pharmacy as provided in section 124.212A.
1 14 Sec. 2. NEW SECTION. 124.212A PHARMACY PSEUDOEPHEDRINE
1 15 SALE == RESTRICTIONS == RECORDS == CONTINGENT APPLICABILITY.
1 16 1. A pharmacy, an employee of a pharmacy, or a licensed
1 17 pharmacist shall do the following:
1 18 a. Provide for the sale of a pseudoephedrine product in a
1 19 locked cabinet or behind the sales counter where the public is
1 20 unable to reach the product and where the public is not
1 21 permitted.
1 22 b. Require the purchaser to present a driver's license or
1 23 other state-issued photo identification card identifying the
1 24 purchaser prior to purchasing a pseudoephedrine product.
1 25 c. Provide an electronic logbook for purchasers of
1 26 pseudoephedrine products to sign.
1 27 d. Require the purchaser to sign the electronic logbook.
1 28 If the electronic logbook is not available, require a
1 29 signature that is associated with a transaction number.
1 30 e. Enter the purchaser's name, address, date of purchase,
1 31 time of purchase, name of the pseudoephedrine product
1 32 purchased, and the quantity sold in the electronic logbook.
1 33 If the electronic logbook is unavailable, an alternative
1 34 record shall be kept that complies with rules adopted by the
1 35 board.
2 1 f. Determine that the signature in the electronic logbook
2 2 corresponds with the name on the driver's license or other
2 3 state-issued photo identification card.
2 4 g. Provide notice that a purchaser entering a false
2 5 statement or misrepresentation in the electronic logbook may
2 6 subject the purchaser to criminal penalties under 18 U.S.C. }
2 7 1001.
2 8 h. Keep electronic logbook records and any other records
2 9 obtained if the electronic logbook is unavailable for
2 10 twenty-four months from the date of the last entry.
2 11 i. Disclose electronic logbook information and any other
2 12 associated records as provided by state and federal law.
2 13 j. Comply with training requirements pursuant to federal
2 14 law.
2 15 2. This section is not applicable unless sufficient
2 16 funding is received to implement the statewide real-time
2 17 central repository and the board establishes the statewide

2 18 real-time central repository. However, subsection 1,
2 19 paragraph "h" is applicable upon the effective date of this
2 20 Act.

2 21 Sec. 3. NEW SECTION. 124.212B PSEUDOEPHEDRINE SALES ==
2 22 TRACKING == PENALTY == CONTINGENT APPLICABILITY.

2 23 1. The board shall establish a real-time electronic
2 24 repository to monitor and control the sale of schedule V
2 25 products containing any detectible amount of pseudoephedrine,
2 26 its salts, or optical isomers, or salts of optical isomers;
2 27 ephedrine; or phenylpropanolamine. A pharmacy dispensing such
2 28 products shall report all such sales electronically to a
2 29 central repository under the control of the board.

2 30 2. The information collected in the central repository is
2 31 confidential unless otherwise ordered by a court, or released
2 32 by the lawful custodian of the records pursuant to this
2 33 section.

2 34 3. A pharmacy, an employee of a pharmacy, or a licensed
2 35 pharmacist shall not be provided access to the stored
3 1 information in the electronic central repository, except for
3 2 the purpose of obtaining sufficient information for the
3 3 pharmacist to determine whether to complete the sale of the
3 4 product. A pharmacy, an employee of a pharmacy, or a licensed
3 5 pharmacist shall not be given the obligation or duty to view
3 6 the stored information.

3 7 4. A pharmacy, or an employee of a pharmacy, or a licensed
3 8 pharmacist shall not be given the obligation or duty to seek
3 9 information from the central repository if the real-time
3 10 electronic logbook becomes unavailable for use.

3 11 5. If the electronic logbook is unavailable for use, a
3 12 paper record for each sale shall be maintained including the
3 13 purchaser's signature. Any paper record maintained by the
3 14 pharmacy shall be provided to the board for inclusion in the
3 15 electronic real-time central repository as soon as
3 16 practicable.

3 17 6. A pharmacy, or an employee of a pharmacy, or a licensed
3 18 pharmacist shall not be liable to any person for any claim
3 19 which may arise when reporting sales of products enumerated in
3 20 subsection 1 to the central repository.

3 21 7. A person who discloses information stored in the
3 22 central repository in violation of this section commits a
3 23 simple misdemeanor.

3 24 8. The board shall adopt rules to administer this section.

3 25 9. This section is not applicable unless sufficient
3 26 funding is received to implement this section and the board
3 27 establishes the statewide real-time central repository.

3 28 Sec. 4. NEW SECTION. 124.212C PSEUDOEPHEDRINE ADVISORY
3 29 COUNCIL == ELECTRONIC MONITORING.

3 30 1. The board shall establish a pseudoephedrine advisory
3 31 council to provide input and advise the board regarding the
3 32 implementation of the statewide real-time central repository
3 33 established under section 124.212B to monitor sales of
3 34 pseudoephedrine. The board shall specify the duties,
3 35 responsibilities, and other related matters of the advisory
4 1 council.

4 2 2. The council shall consist of four licensed pharmacists.
4 3 The board shall solicit recommendations for membership on the
4 4 council from the Iowa pharmacy association and shall appoint
4 5 members from the recommendations. The council shall include a
4 6 member from an independent pharmacy, a member from a regional
4 7 chain pharmacy, and a member from a national chain pharmacy.
4 8 The license of any member must be current and not subject to
4 9 disciplinary sanctions.

4 10 3. The council may make recommendations regarding the
4 11 implementation of the statewide real-time central repository
4 12 monitoring system under section 124.212B.

4 13 4. The council shall do the following:

4 14 a. Assist the board in implementing the statewide
4 15 real-time central repository monitoring system.

4 16 b. Assist the board in developing utilization guidance
4 17 related to the statewide real-time central repository
4 18 monitoring system and disseminating such guidance.

4 19 c. Assist the board in developing guidelines to ensure
4 20 patient confidentiality and the integrity of the relationship
4 21 established by the patient and the patient's health care
4 22 provider.

4 23 5. Each member of the council shall receive per diem
4 24 compensation at the rate specified in section 7E.6 for each
4 25 day spent in the performance of the member's duties. All
4 26 members of the council shall receive actual and necessary
4 27 expenses incurred in the performance of their duties.

4 28 6. This section is repealed when the establishment of the

4 29 statewide real-time central repository is complete.

4 30 Sec. 5. Section 124.213, Code 2007, is amended by striking
4 31 the section and inserting in lieu thereof the following:

4 32 124.213 PSEUDOEPHEDRINE PURCHASE RESTRICTIONS FROM
4 33 PHARMACY OR RETAILER == PENALTY.

4 34 1. A person shall not purchase more than three thousand
4 35 six hundred milligrams of pseudoephedrine, either separately
5 1 or collectively, within a twenty-four-hour period from a
5 2 pharmacy, or more than one package of a product containing
5 3 pseudoephedrine within a twenty-four hour period from a
5 4 retailer in violation of section 126.23A.

5 5 2. A person shall not purchase more than seven thousand
5 6 five hundred milligrams of pseudoephedrine, either separately
5 7 or collectively, within a thirty-day period from a pharmacy or
5 8 from a retailer in violation of section 126.23A.

5 9 3. A person who violates this section commits a serious
5 10 misdemeanor.

5 11 Sec. 6. Section 126.23A, subsection 1, paragraph a,
5 12 subparagraph (1), Code 2007, is amended by striking the
5 13 subparagraph and inserting in lieu thereof the following:

5 14 (1) Sell more than seven thousand five hundred milligrams
5 15 of pseudoephedrine to the same person within a thirty-day
5 16 period.

5 17 Sec. 7. Section 126.23A, subsection 1, paragraph b, Code
5 18 2007, is amended to read as follows:

5 19 b. A retailer or an employee of a retailer shall do the
5 20 following:

5 21 (1) Provide for the sale of a pseudoephedrine product in a
5 22 locked cabinet or behind a sales counter where the public is
5 23 unable to reach the product and where the public is not
5 24 permitted.

5 25 (2) Require a purchaser to present a ~~government-issued~~
5 26 ~~photo driver's license or other state-issued photo~~
5 27 identification card identifying the purchaser prior to
5 28 purchasing a pseudoephedrine product.

5 29 (3) Require the purchaser to sign a logbook and to also
5 30 require the purchaser to legibly print the purchaser's name
5 31 and address in the logbook.

5 32 (4) Print the name of the pseudoephedrine product
5 33 purchased and quantity sold next to the name of each purchaser
5 34 in the logbook.

5 35 ~~(4) (5) Determine the signature in the logbook~~
6 1 ~~corresponds with the name on the ~~government-issued photo~~~~
6 2 ~~driver's license or other state-issued photo~~ identification
6 3 card.

6 4 ~~(5) (6) Keep the logbook ~~twelve~~ twenty-four months from~~
6 5 the date of the last entry.

6 6 ~~(6) (7) Provide notification in a clear and conspicuous~~
6 7 manner in a location where a pseudoephedrine product is
6 8 offered for sale stating the following:

6 9 Iowa law prohibits the over-the-counter purchase of more
6 10 than one package of a product containing pseudoephedrine in a
6 11 twenty-four-hour period or of more than seven thousand five
6 12 hundred milligrams of pseudoephedrine within a thirty-day
6 13 period. If you purchase a product containing pseudoephedrine,
6 14 you are required to sign a logbook which may be accessible to
6 15 law enforcement officers.

6 16 (8) Provide notification affixed to the logbook stating
6 17 that a purchaser entering a false statement or
6 18 misrepresentation in the logbook may subject the purchaser to
6 19 criminal penalties under 18 U.S.C. } 1001.

6 20 (9) Disclose logbook information as provided by state and
6 21 federal law.

6 22 (10) Comply with training requirements pursuant to federal
6 23 law.

6 24 Sec. 8. CONTINGENT APPLICABILITY == PHARMACY BOARD AND
6 25 CODE EDITOR RESPONSIBILITIES.

6 26 1. The board of pharmacy examiners shall notify the Code
6 27 editor when the establishment of the repository on a statewide
6 28 basis is complete.

6 29 2. When the establishment of the central repository on a
6 30 statewide basis is complete, the Code editor is directed to
6 31 remove section 124.212A, subsection 2, section 124.212B,
6 32 subsection 9, and section 124.212C, from the Code and to
6 33 internally renumber the sections as necessary.

6 34 EXPLANATION

6 35 This bill relates to the sale of a pseudoephedrine product
7 1 by a pharmacy or retailer.

7 2 PENALTIES. The bill provides that a person shall not
7 3 purchase more than 3,600 milligrams of pseudoephedrine, either
7 4 collectively or separately, within a 24-hour period from a

7 5 pharmacy unless the person has a prescription. A person who
7 6 violates this provision of the bill commits a serious
7 7 misdemeanor. Under current law and the bill, a person commits
7 8 a serious misdemeanor if the person purchases more than 7,500
7 9 milligrams of pseudoephedrine within a 30-day period from a
7 10 pharmacy or retailer.

7 11 PHARMACY. The bill requires a purchaser of a
7 12 pseudoephedrine product from a pharmacy to present a driver's
7 13 license or other state-issued photo identification card prior
7 14 to purchase, and sign an electronic logbook. Current law does
7 15 not require an electronic logbook and requires a purchaser to
7 16 present a government-issued photo identification card prior to
7 17 purchase. The bill also provides that if the electronic
7 18 logbook is unavailable, the pharmacy is required to keep an
7 19 alternative record that complies with rules adopted by the
7 20 state board of pharmacy examiners.

7 21 The bill requires a pharmacy, an employee of a pharmacy, or
7 22 a licensed pharmacist, to enter a purchaser's name, address,
7 23 date of purchase, time of purchase, name of pseudoephedrine
7 24 product, and quantity sold into an electronic logbook. If the
7 25 electronic logbook is unavailable for use, the bill requires
7 26 the pharmacy to keep written records of the transaction
7 27 including a signature.

7 28 The bill requires a pharmacy to keep electronic logbook
7 29 records for a period of 24 months from the date of the last
7 30 entry. Current law requires the pharmacy to keep the logbook
7 31 12 months from the date of the last entry.

7 32 The bill provides that the state board of pharmacy
7 33 examiners shall implement a statewide real-time central
7 34 repository to track pseudoephedrine product sales at
7 35 pharmacies. The bill requires a pharmacy dispensing
8 1 pseudoephedrine products to report all such sales
8 2 electronically to the central repository under the control of
8 3 the state board of pharmacy examiners. If the pharmacy has
8 4 written records, the records are also to be reported for entry
8 5 into the repository. If the electronic logbook is unavailable
8 6 for use, the bill requires the pharmacy to keep written
8 7 records of the transaction including a signature.

8 8 The bill makes confidential the information collected in
8 9 the central repository unless otherwise ordered by a court, or
8 10 the records are released by the custodian of the records
8 11 pursuant to new Code section 124.212B.

8 12 The bill provides that a pharmacy, an employee of a
8 13 pharmacy, or a licensed pharmacist shall not be liable to any
8 14 person for any claim which may arise when reporting
8 15 pseudoephedrine sales to the central repository.

8 16 The bill also requires a pharmacy to comply with training
8 17 requirements pursuant to federal law.

8 18 A person who discloses information stored in the central
8 19 repository in violation of the bill commits a simple
8 20 misdemeanor.

8 21 RETAILER. The bill requires a purchaser of a
8 22 pseudoephedrine product from a retailer to present a driver's
8 23 license or other state-issued photo identification card prior
8 24 to purchase. Current law requires a purchaser to present a
8 25 government-issued photo identification card prior to purchase.
8 26 The bill requires a retailer or an employee of a retailer
8 27 to print the name of the pseudoephedrine product purchased and
8 28 the quantity sold next to the name of each purchaser in the
8 29 logbook.

8 30 The bill requires the retailer to keep the logbook 24
8 31 months from the date of the last entry. Current law requires
8 32 the retailer to keep the logbook 12 months from the date of
8 33 the last entry. The bill does not require a retailer to keep
8 34 an electronic logbook of pseudoephedrine purchases.

8 35 The bill also requires a retailer to comply with training
9 1 requirements pursuant to federal law.

9 2 ADVISORY COMMITTEE. The bill requires the board of
9 3 pharmacy examiners to establish a pseudoephedrine advisory
9 4 committee to provide input and advise the board regarding the
9 5 implementation of the statewide real-time central repository.
9 6 The advisory committee shall consist of four licensed
9 7 pharmacists including a pharmacist from an independent
9 8 pharmacy, a regional chain pharmacy, and a national chain
9 9 pharmacy. Code section 124.212C establishing the advisory
9 10 committee is repealed when the establishment of the statewide
9 11 real-time repository is complete.

9 12 CONTINGENT APPLICABILITY. New Code sections 124.212A and
9 13 124.212B created in the bill do not become applicable until
9 14 sufficient funding is received and the central repository
9 15 under the control of the state board of pharmacy examiners is

9 16 established on a statewide basis. However, Code section
9 17 124.212A, subsection 1, paragraph "h", in the bill, which
9 18 requires a pharmacy to keep logbook records 24 months from the
9 19 date of the last entry, is applicable upon the effective date
9 20 of the bill.
9 21 LSB 1286HV 82
9 22 jm:rj/gg/14